

104TH CONGRESS
1ST SESSION

H. R. 393

To prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. PALLONE (for himself, Mr. SAXTON, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Resources

A BILL

To prohibit the commercial harvesting of Atlantic striped bass in the coastal waters and the exclusive economic zone.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 As used in this Act, the terms “Magnuson Act”, “At-
5 lantic striped bass”, and “coastal waters” have the same
6 meanings that are given such terms in section 2 of the
7 Atlantic Striped Bass Conservation Act (16 U.S.C. 1851
8 note).

1 **SEC. 2. PROHIBITION ON COMMERCIAL HARVESTING OF**
2 **ATLANTIC STRIPED BASS.**

3 (a) PROHIBITION.—It is unlawful to engage in, or to
4 attempt to engage in, the commercial harvesting of Atlan-
5 tic striped bass in the coastal waters or in the exclusive
6 economic zone established by Proclamation Numbered
7 5030, dated March 10, 1983.

8 (b) PENALTIES.—(1) Any person who is found by the
9 Secretary of Commerce after notice and an opportunity
10 for a hearing in accordance with section 554 of title 5,
11 United States Code, to have committed an act that is un-
12 lawful under subsection (a), is liable to the United States
13 for a civil penalty. The amount of the civil penalty may
14 not exceed \$1,000 for each violation. Each day of continu-
15 ing violation constitutes a separate offense. The amount
16 of the civil penalty shall be assessed by the Secretary of
17 Commerce by written notice. In determining the amount
18 of the penalty, the Secretary of Commerce shall take into
19 account the nature, circumstances, extent, and gravity of
20 the prohibited act committed and, with respect to the vio-
21 lator, the degree of culpability, any history of prior viola-
22 tions, ability to pay, and such other matters as justice may
23 require.

24 (2) Subsections (b) through (e) of section 308 of the
25 Magnuson Act (16 U.S.C. 1858(b)–(e); relating to review
26 of civil penalties; acting upon failure to pay assessment,

1 compromise, and subpoenas) shall apply to penalties as-
2 sessed under paragraph (1) to the same extent and in the
3 same manner as if those penalties were assessed under
4 subsection (a) of such section 308.

5 (c) CIVIL FORFEITURES.—(1) Any vessel (including
6 its gear, equipment, appurtenances, stores, and cargo)
7 used, and any fish (or the fair market value thereof) taken
8 or retained, in any manner, in connection with, or the re-
9 sult of, the commission of any act that is unlawful under
10 subsection (a), is subject to forfeiture to the United
11 States. All or part of the vessel may, and all such fish
12 (or the fair market value thereof) shall, be forfeited to the
13 United States under a civil proceeding described in para-
14 graph (2). The district courts of the United States have
15 jurisdiction over proceedings under this subsection.

16 (2) Subsections (c) through (e) of section 310 of the
17 Magnuson Act (16 U.S.C. 1860(c)–(e); relating to judg-
18 ment, procedure, and rebuttable presumptions) apply with
19 respect to proceedings for forfeiture commenced under
20 this subsection to the same extent and in the same manner
21 as if the proceeding were commenced under subsection (a)
22 of such section 310.

23 **SEC. 3. CONSEQUENTIAL EFFECTS ON EXISTING LAW.**

24 (a) COMMISSION ACTION.—The Atlantic States Ma-
25 rine Fisheries Commission shall promptly take action to

1 amend the Interstate Fisheries Management Plan for
2 Striped Bass, dated October 1, 1981, to take into account
3 the prohibition established under section 2 on the commer-
4 cial harvesting of Atlantic striped bass in coastal waters.

5 (b) STRIPED BASS STUDY.—The Director of the
6 United States Fish and Wildlife Service shall adjust the
7 scope of the study required under section 5 of Public Law
8 100–589 (16 U.S.C. 1851 note) to reflect the prohibition
9 established under section 2 on the commercial harvesting
10 of Atlantic striped bass.

11 (c) REPEAL OF PROVISIONS REGULATING FISHING
12 FOR ATLANTIC STRIPED BASS IN THE EXCLUSIVE ECO-
13 NOMIC ZONE.—Section 6 of Public Law 100–589 (16
14 U.S.C. 1851 note) is repealed.

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